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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,772

12/07/2005

Sergio Santini

5002-1083

5939

466

7590

11/10/2009

YOUNG & THOMPSON

209 Madison Street

Suite 500

Alexandria, VA 22314

EXAMINER

GUMBS, KEEGAN ROSS

ART UNIT

PAPER NUMBER

3751

NOTIFICATION DATE

DELIVERY MODE

11/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary	Application No. 10/559,772	Applicant(s) SANTINI ET AL.	
	Examiner KEEGAN GUMBS	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6 and 8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 July 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

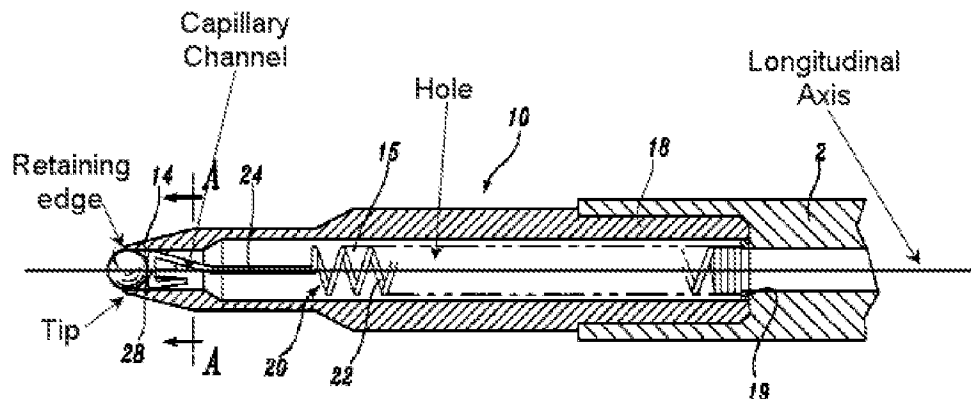
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim (US 6,193,429 B1), hereinafter Kim.

Regarding claim 1, Kim discloses a ball point pen 10 comprising a reservoir 2 communicating with a hole (15, see the annotated figure below) connected to a capillary channel (15, seen the annotated figure below) of a tip (see the annotated figure below) which is provided with a cavity 16 which seats the ball 30 for writing, the ball being kept pressed against a retaining edge (see the annotated figure below) of the cavity as a result of the thrust of a compression-resilient spring 20 terminating in a straight portion 24 and 28 which is aligned with the a longitudinal axis of the ball-point pen (see the annotated figure below) and a free end of the spring 28 is in contact with the ball (see Figure 8 and col. 4, lines 14-25), wherein said capillary channel has means 14 which, coming into contact with the straight portion of the spring, “substantially” prevents it from becoming inclined with respect to the longitudinal axis of the ball-point pen (*member 14 prevents the straight portion of the spring from being inclined; see Figures 8 and 9*), wherein said capillary channel has a narrow section 14, through which the straight portion of the spring passes through, is designed with dimensions such as to contain the

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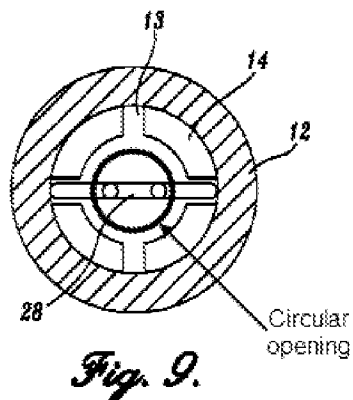
straight portion of the spring in an approximately complementary manner with a minimum amount of play (see *Figure 9*), substantially preventing the straight portion of the spring from assuming inclined positions with respect the longitudinal axis.



Regarding claim 3, Kim discloses one or more through-grooves 13 are formed in the region of the narrow section, the through-grooves connecting the cavity inside which the ball is seated to the hole with which the reservoir communicates (see *Figures 1, 8, and 9*).

Regarding claims 4 and 6, Kim discloses the narrow section is formed by a cylindrical shaped restriction 14 (see *Figure 9*).

Regarding claim 8, Kim discloses a cross section through the said narrow section 14 on a plane perpendicular to the longitudinal axis defines a circular opening surround said straight portion (see the annotated figure below).

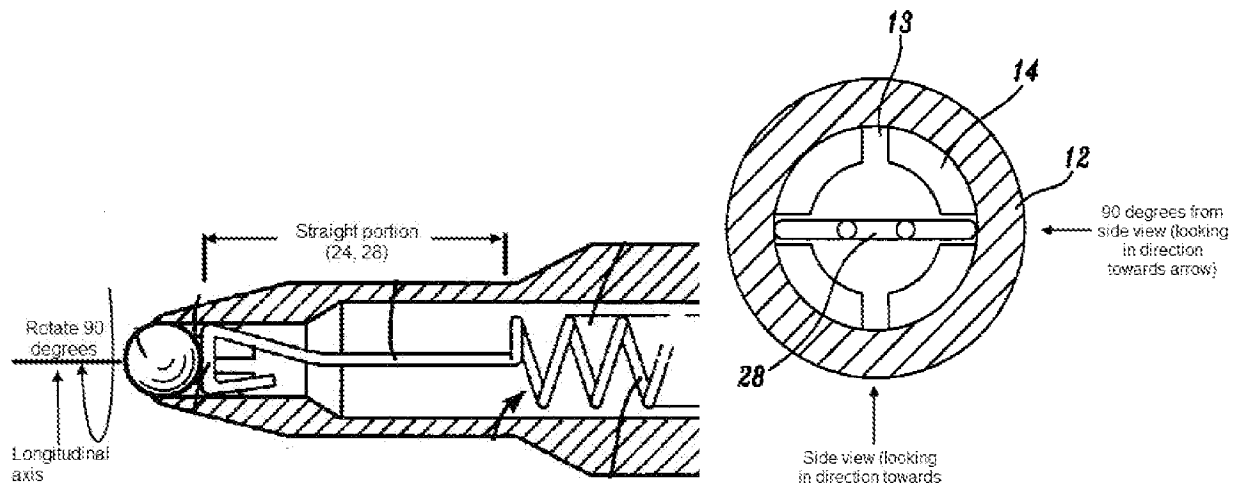


Response to Arguments

3. Applicant's arguments filed 7/14/2009 have been fully considered but they are not persuasive. Regarding the limitations of claim 1, the applicant has argued that "there is nothing in Kim to suggest that that the spring is prevented from assuming inclined positions with respect to the longitudinal axis...element 14 does not appear to be dimensioned in such a way that it prevents the spring from sliding" on page 7 of the applicant's remarks section. The examiner disagrees and believes Fig. 9 of Kim clearly shows that element 14 "substantially" prevents the resilient spring, more specifically the straight portion 24 and 28, from moving any direction except for back and forth along the longitudinal axis.

The applicant has also argued that "the free end of element 20 does not contact the ball" and that "the spring [20] does not terminate in a straight, free end," on page 8 of the applicant's remarks section. The examiner disagrees and the following annotated figures of Fig. 8 and 9 will help clarify.

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The examiner, in both this action and the previous action, has described the straight portion of to be reference numbers 24 and 28, including 28 of the straight portion being the free end in contact with the ball (clearly disclosed in Fig. 8, and col. 4, lines 16-21); thus the free end of element 20 does contact the ball. Furthermore when looking at the left annotated figure directly above (annotated Fig. 8), which the examiner will call the "side view", it is clear that in comparison to the twisted/wound/helicoidal portion of the resilient member 20, elements 24 and 28 could be construed as generally straight. Additionally, if the "side view" above was to be rotated 90 degrees about the longitudinal axis then another cross section was taken, every part of elements 28 and 24 would be aligned with the longitudinal axis, i.e. would be along one plane, thus the spring does terminate in straight portion (see the right annotated figure above).

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEEGAN GUMBS whose telephone number is (571) 270-5608. The examiner can normally be reached on Monday through Friday 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KRG
AU 3751
November 2, 2009

*/David J. Walczak/
Primary Examiner, Art Unit 3751*